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FM AMEMBASSY KUALA LUMPUR
TO RUEHC/SECSTATE WASHDC IMMEDIATE 1442
INFO RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY
RUEHBK/AMEMBASSY BANGKOK PRIORITY 3333
RUEHUL/AMEMBASSY SEOUL PRIORITY 1681
RHHMUNA/USCINCPAC HONOLULU HI PRIORITY
RHEHNSC/NSC WASHDC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 02 KUALA LUMPUR 000688

SIPDIS

DEPT FOR EAP/MTS, BANGKOK AND SEOUL PLEASE PASS TO THE EAP
TRAVELING PARTY

E.O. 12958: DECL: 08/06/2018

TAGS: [PGOV](#) [PHUM](#) [MY](#)

SUBJECT: ANWAR TO BE CHARGED

REF: A. STATE 83221 - RESPONDING TO CHARGES AGAINST ANWAR

[1](#)B. KL 666 ANWAR TO CONTEST FORMER SEAT

[1](#)C. KL 626 - ANWAR ARRESTED

[1](#)D. EAP-EMBASSY KL EMAIL AUGUST 1

Classified By: Classified By: Acting Political Section Chief W. Gary Gr
ay for reasons 1.4 (b
and d).

[1](#)1. (C) Summary. Anwar Ibrahim has been summoned to appear in court on the morning of August 7 and will be charged with sodomy. In the meantime, the Election Commission announced an August 26 date for the by-election for the parliamentary seat Anwar is contesting. The sodomy charge in itself will not prevent Anwar from running in the by-election or assuming a seat in Parliament. At his August 6 press conference, Anwar maintained that the charges were part of a conspiracy by top police management and the Prime Minister's office, and he vowed to continue his by-election campaign even if he is denied bail and returns to prison. While bail is customarily granted in cases such as this where police bail has previously been given, a possible denial of bail cannot be ruled out. The Ambassador is attempting to reach out to senior MFA officials to convey our concern per Ref A instructions and recommends that the Department call in the Malaysian Charge (see para 6). End summary.

[1](#)2. (C) Former Deputy Prime Minister and de facto opposition leader Anwar Ibrahim is expected to be charged for sodomy on August 7, a crime punishable by up to 20 years of imprisonment. His lawyer Sankaran Nair told poloffs the police have informed him that Anwar will be charged under Section 377C of the Penal Code for alleged "carnal intercourse against the order of nature" with his former male aide Mohamad Saiful Bukhari Azlan. Anwar confirmed to reporters that he had received the summons served by the police directing him to appear at Kuala Lumpur Sessions Court on the morning of August 7. Poloffs will attempt to gain access to the court hearing. The Deputy Inspector General Police Ismail Omar released a press statement on August 6 also confirming that the Attorney General Chambers has decided to charge Anwar for sodomy after examining the investigation papers forwarded by the police.

[1](#)3. (C) Anwar was initially arrested on July 16 and released on police bail the next day after he had given his statement to the police (ref C). The decision to charge Anwar is no surprise to his lawyers -- Sankaran told poloffs that he already has assembled some of the most senior criminal lawyers in the country to defend the former DPM. Anwar's lawyers argue that although the Malaysia Penal Code is clear that sodomy is not a "bailable offense," the presiding judge nevertheless has the discretion to grant bail. (Note: The judge is unable to exercise discretion only in regard to more

serious offenses such as murder, fire arms or kidnapping cases. End note.) Anwar,s lawyers are expected to argue that since Anwar was released on police bail when he was arrested on July 16, the judge should exercise discretion to grant bail since the police themselves do not believe he will abscond or harass and intimidate potential witnesses (the argument the prosecution had raised during the first sodomy trial in 1999 when the presiding judge denied Anwar bail).

¶4. (C) In his August 6 press conference, Anwar maintained that the forthcoming charge against him "will happen with the active support and criminal involvement of the highest echelon of the police and politicians--including the Office of the Prime Minister." He asserted that, due to the lack of evidence, legal professionals in the Attorney General's office had advised against bringing charges, but been overruled by their political masters. He reiterated his determination to contest the Permatang Pauh by-election.

¶5. (C) In the meantime, the Election Commission announced on August 7 that the by-election for the Permatang Pauh parliamentary seat Anwar is contesting will be held on August 26. Nominations are due August 16. Most of our sources, even from the ruling coalition, believe Anwar will easily win the seat. An UMNO (United Malay National Organization) operative conceded to us on August 6 that "even Anwar's hat" could defeat whoever UMNO ran, adding that the ruling party's strategy is limited to reducing Anwar's margin of victory, especially in the Malay areas.

¶6. (C) Based on the Government's decision to formally charge Anwar, the Ambassador attempted August 6 to reach MFA

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Secretary General Rastam to deliver reftel points. As of COB Rastam remained unavailable. The Ambassador recommends that the Department call in the Malaysian Charge in Washington to deliver reftel points August 6, Washington time. We anticipate the points will not/not dissuade the Malaysians from charging the opposition leader on August 7 local time, but we ought not miss any opportunity to warn the Malaysians of diminished international confidence in the rule of law here due to their handling of the Anwar case. We also recommend that the Department utilize the cleared press guidance (per ref D) for press queries or public statements. The British embassy is preparing guidance that will refer to recent assurances of Foreign Minister Rais Yatim to a visiting British minister that the Anwar case would strictly follow legal norms. Individual members of a British parliamentary delegation currently visiting KL are expected to comment on the case and the visiting Australian immigration minister is plans to raise the Anwar case in a meeting with Home Affairs Minister Syed Hamid on August 7.

¶7. (C) Comment. The forthcoming charge against Anwar is no surprise -- his lawyers have been fully expecting and preparing for this development. The Government has shown part of its hand, revealing a continuing strategy to attempt to derail Anwar's political comeback by using all possible legal means. While only a conviction (which could take six months or more) would bar Anwar from Parliament, a decision to hold him without bail could seriously undermine his efforts to manage his unwieldy coalition and carry out his stated intention to take over the government by September 16.

While public protests are possible, our opposition sources indicate that they will attempt to avoid any actions that would give the Government a pretext for cracking down and using the ISA to detain opposition activists. End Comment.

KEITH